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**Nonresident Withholding Exchange Affidavit****597-E**

Attach this form to the back of Form 597-W.

**Part I** To be completed for a **NONSIMULTANEOUS** Internal Revenue Code (IRC) Section 1031 exchange. Please type or print.

Name of transferor/seller		Name of transferee/buyer	
Name of intermediary (include name of the contact person for the intermediary)		Telephone number of intermediary ( )	FAX number of intermediary ( )
Address, State, and ZIP Code of intermediary			PMB no. 
Address of California real estate being sold		Adjusted basis of California real estate being sold \$	
Address or location of replacement real estate			

**Transferor/Seller and Intermediary Agreement**

The undersigned transferor/seller hereby certifies, under penalties of perjury, that it is the intent of the transferor/seller to treat the transfer of this property as the first part of a nonsimultaneous IRC Section 1031 exchange.

The parties agree that:

- If the exchange takes place and the total sales price exceeds \$100,000, the amount required to be withheld will be the lesser of 7% of any cash or cash equivalent (boot) received by the transferor/seller (or beneficiary) or 3 1/3% of the total sales price. Withholding is required only if the cash or cash equivalent exceeds \$1,500.
- If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, the amount required to be withheld will be 3 1/3% of the total sales price of the real estate.

The transferor/seller further agrees to:

- File a California tax return reporting the transaction; and
- Notify the Franchise Tax Board (FTB), Nonresident Withholding Section if the exchange does not take place or does not qualify for nonrecognition treatment. The transferor/seller must notify the FTB within 10 days after the expiration of the statutory period allowed for exchanges.

The intermediary or other entity in control of the funds agrees to:

- Be liable for withholding the amount specified above; and
- Remit all withheld amounts to the FTB using Copy A of Form 597, Nonresident Withholding Tax Statement for Real Estate Sales. Get Form 597 for information on remitting the amount withheld.

Each nonresident transferor/seller participating in the IRC Section 1031 exchange must sign this affidavit.

Signature of transferor/seller	Date	Signature of transferor/seller	Date
By signing this form, the intermediary agrees to assume responsibility for withholding on payments to the nonresident seller.			
Signature of intermediary	Title	Date	

**General Information****Private Mailbox (PMB) Numbers**

If you lease a private mailbox (PMB) from a private business rather than a PO box from the United States Postal Service, include the box number in the field labeled "PMB no." in the address area.

**Purpose**

Use this form when a transfer is intended to be an IRC Section 1031 exchange. It must be attached to a completed Form 597-W, Withholding Exemption Certificate and Nonresident Waiver Request for Real Estate Sales, when a seller requests a withholding waiver because an exchange is taking place.

Use this form for common exchange transactions only. If the transaction involves multiple properties or a combination of simultaneous/nonsimultaneous exchanges or if you have questions, call the FTB, Nonresident Withholding Section Automated telephone service at (888) 792-4900 or (not toll-free) at (916) 845-4900.

The appropriate agreement for the type of transaction (nonsimultaneous in Part I or simultaneous in Part II) must be completed and signed by the transferor/seller and one of the following:

the intermediary; the transferee/buyer; or the entity in control of the funds. Use Form 597-I, Nonresident Withholding Installment Sale Agreement, for an IRC Section 1031 exchange with an installment provision.

**Where to File This Form**

Send this affidavit and inquires to:

NONRESIDENT WITHHOLDING SECTION  
FRANCHISE TAX BOARD  
PO BOX 651  
SACRAMENTO CA 95812-0651

FAX (916) 845-9512 (24 hours a day 7 days a week)

You can download, view, and print California tax forms and publications. Go to our Website at: [www.ftb.ca.gov](http://www.ftb.ca.gov)

**Assistance for persons with disabilities:** The FTB complies with provisions of the Americans with Disabilities Act. Persons with hearing or speech impairments: from voice phone call (800) 735-2922, or from TTY/TDD call (800) 822-6268.

**Part II** To be completed for a **SIMULTANEOUS** IRC Section 1031 exchange. Please type or print.

Name of transferor/seller		Name of transferee/buyer	
Name of entity in control of funds		Telephone number (      )	FAX number (      )
Address, State, and ZIP Code of the entity in control of funds (include name of the contact person for the entity in control of funds)			PMB no. 
Address of California real estate being sold		Adjusted basis of California real estate being sold \$	
Address or location of replacement real estate			

**Transferor/Seller and Transferee/Buyer or Other Entity in Control of Funds Agreement**

The undersigned transferor/seller hereby certifies, under penalties of perjury, that it is the intent of the transferor/seller to treat the transfer of this property as a simultaneous IRC Section 1031 exchange.

The parties agree that:

- a) If the exchange takes place and the total sale price exceeds \$100,000, the amount required to be withheld will be the lesser of 7% of any cash or cash equivalent (boot) received by the transferor/seller (or beneficiary) or 3 1/3% of the total sales price. Withholding is required only if the cash or cash equivalent exceeds \$1,500.
- b) If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, the amount required to be withheld will be 3 1/3% of the total sales price of the real estate.

The transferor/seller further agrees to:

- a) File a California tax return reporting the transaction; and
- b) Notify the Franchise Tax Board (FTB), Nonresident Withholding Section if the exchange does not take place or does not qualify for nonrecognition treatment. The transferor/seller must notify the FTB within 10 days after the expiration of the statutory period allowed for exchanges.

The transferee/buyer or other entity in control of the funds agrees to:

- a) Be liable for withholding the correct amount specified above; and
- b) Remit all withheld amounts to the FTB using Copy A of Form 597, Nonresident Withholding Tax Statement for Real Estate Sales. Get Form 597 for information on remitting the amount withheld.

Each nonresident transferor/seller participating in the IRC Section 1031 exchange must sign this affidavit.

► _____ Signature of transferor/seller	_____ Date	► _____ Signature of transferor/seller	_____ Date
► _____ Signature of transferee/buyer or other entity in control of funds		► _____ Title	_____ Date